

AVISON TIMBER COMPANY,)	AGBCA No. 2004-117-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
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OPINION OF THE BOARD OF CONTRACT APPEALS

January 22, 2004

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion by Administrative Judge VERGILIO.

On December 22, 2003, the Board received this appeal filed by Avison Timber Company, of Molalla, Oregon (purchaser). The respondent is the U. S. Department of Agriculture, Forest Service (Government). Following a suspension of operations, resulting from a court order, this purchaser on the Bear Timber Sale contract, No. 073930, in the Clackamas River Ranger District of the Mt. Hood National Forest, Oregon, sought payment for damages of \$102,771 under the contract plus interest at the applicable legal rate. Although the contracting officer found entitlement, lacking funds to compensate the purchaser, the contracting officer denied the claim. This appeal ensued.

The Board has jurisdiction over this timely-filed appeal pursuant to the Contract Disputes Act of 1978, 41 U.S.C. §§ 601-613, as amended (CDA).

Following telephone conferences with the parties, the Board received from the parties on January 22, 2004, a settlement agreement and stipulation for consent judgment. The parties have settled all matters involving the underlying contract, including any claims for costs or attorney fees, by mutual cancellation of the contract and payment of \$105,599 from the Government to the purchaser. The Forest Service shall directly compensate the purchaser by payment of \$2,828 (reimbursing the purchaser for the down payment). The Forest Service shall also pay the purchaser \$102,771, plus interest thereon, as provided by the CDA, 41 U.S.C. § 611, from October 28, 2003, until paid. Each party agrees that it will not seek reconsideration, and will not file an appeal, of this decision.

DECISION

Pursuant to the stipulated judgment, the Board grants the appeal. In addition to the mutual cancellation of the contract and the amount to be paid by the Forest Service directly, the purchaser shall recover \$102,771, plus interest thereon, as provided in the CDA, 41 U.S.C. § 611, calculated from October 28, 2003. By agreement of the parties, this represents a final decision; neither party will seek reconsideration or appeal the decision.

JOSEPH A. VERGILIO

Administrative Judge

Concurring:

HOWARD A. POLLACK

Administrative Judge

ANNE W. WESTBROOK

Administrative Judge

Issued at Washington, D.C.

January 22, 2004